

## **EXHIBIT 15**

LEONARD KOPELMAN  
DONALD G. PAIGE  
ELIZABETH A. LANE  
JOYCE FRANK  
JOHN W. GIORGIO  
BARBARA J. SAINT ANDRE  
JOEL B. BARD  
JOSEPH L. TEHAN, JR.  
THERESA M. DOWDY  
DEBORAH A. ELIASON  
RICHARD BOWEN  
DAVID J. DONESKI  
JUDITH C. BUTLER  
KATHLEEN E. CONNOLLY  
DAVID C. JENKINS  
MARK R. REICH  
BRIAN W. RILEY  
DARREN R. KLEIN  
JONATHAN M. SILVERSTEIN

EDWARD M. REILLY  
DIRECTOR WESTERN OFFICE

WILLIAM HEWIG III  
JEANNE S. MCKNIGHT

KOPELMAN AND PAIGE, P. C.

ATTORNEYS AT LAW

31 ST. JAMES AVENUE

BOSTON, MASSACHUSETTS 02116-4102

(617) 556-0007  
FAX (617) 654-1735

PITTSFIELD OFFICE  
(413) 443-6100

NORTHAMPTON OFFICE  
(413) 585-8632

WORCESTER OFFICE  
(508) 752-0203

KATHLEEN M. O'DONNELL  
SANDRA M. CHARTON  
PATRICIA A. CANTOR  
THOMAS P. LANE, JR.  
MARY L. GIORGIO  
THOMAS W. MCENANEY  
KATHARINE GOREE DOYLE  
GEORGE X. PUCCI  
LAUREN F. GOLDBERG  
JASON R. TALERMAN  
JEFFREY A. HONIG  
MICHELE E. RANDAZZO  
GREGG J. CORBO  
RICHARD T. HOLLAND  
LISA C. ADAMS  
ELIZABETH R. CORBO  
MARCELINO LA BELLA  
VICKI S. MARSH  
JOHN J. GOLDROSEN  
SHIRIN EVERETT  
BRIAN E. GLENNON, II  
JONATHAN D. EICHMAN  
LAURA H. PAWLE  
TODD A. FRAMPTON  
JACKIE COWIN

July 23, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED  
AND FIRST-CLASS MAIL

NO. 7099 3220 0009 7561 7421

Deborah Griffin, Esq.  
Holland & Knight, LLP  
10 St. James Avenue  
Boston, MA 02116

NO. 7099 3220 0009 7561 7360

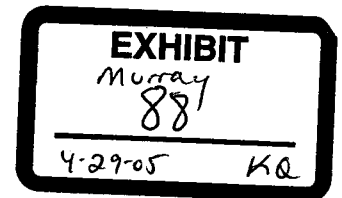
Bert J. Capone, Esq.  
Cetrulo & Capone  
2 Seaport Lane  
Boston, MA 02210

Re: Notice of Default Under General Contract

Project:	North Brookfield Junior/Senior High School Project
Performance Bond No.	3SE057856
Principal:	E.J. Sciaba Contracting Company, Inc.
Owner:	Town of North Brookfield, Massachusetts
Contract Date:	April 19, 2002
Bond Amount:	\$13,222,000.00

Dear Counsel:

Pursuant to paragraph 3.2 of the above-referenced Performance Bond, a copy of which is attached hereto for your review and convenience, the Town hereby provides formal notice that it has declared a contractor default on the part of E.J. Sciaba Contracting Company, Inc. ("Sciaba"), and formally terminates Sciaba's right to complete the contract described in said bond. As you know, in a letter dated July 2, 2003, the Town notified you that it was considering



AM17403

KOPELMAN AND PAIGE, P.C.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED  
AND FIRST CLASS MAIL

Deborah Griffin, Esq.

Bert J. Capone, Esq.

July 23, 2003

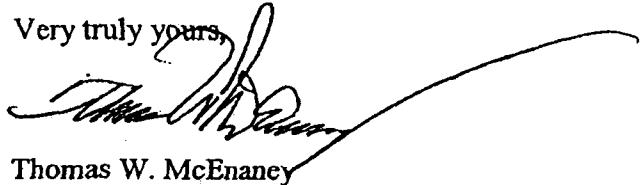
Page 2

declaring a contractor default pursuant to paragraph 3.1 of the Performance Bond. A copy of said letter is attached hereto for your review and information. The Town now calls upon American Manufacturers Mutual Insurance Company ("AMMIC"), as surety, to fulfill its obligations to the Town under the Performance Bond. This declaration of default is based upon Sciaba's voluntary default, as set forth in its May 30, 2003 letter, a copy of which is attached hereto.

Finally, please be advised that the Town hereby reserves all of its statutory and contractual rights to remedy Sciaba's breach and all rights under the contract documents.

Please contact me if you wish to discuss AMMIC's remedy of Sciaba's default.

Very truly yours,



Thomas W. McEnaney

TWM/rif

Enc.

cc: Board of Selectmen  
School Building Committee  
Mr. Lee P. Dore, Assoc. AIA, CSI

196667/NBRO/0001

## **EXHIBIT 16**

Ex 151

Principal: E.J. Sciaba Contracting Company, Inc.  
 Obligor: Town of North Brookfield  
 Project: North Brookfield JR/SR High School  
 Surety: American Manufacturers Mutual Insurance Co.  
 Bond No.: 3SE 057 856  
 Claim: 167-SE-002 989

EFFECTIVE DATE 7-21-03

**PROJECTED COST OF COMPLETION**

<b>Assets</b>	<b>Item Description</b>		
1	Original Contract Amount	\$ 13,222,000.00	
2	Executed Change Orders	<u>132,829.28</u>	
3	Adjusted Contract Amount	13,354,829.28	
4	Less Monies Earned through Requisition 13, period ending 5/31/03	5,155,969.10	
5	Contract Balance through Requisition 13, period ending 5/31/03 (Including Retention & Earned and Unpaid Monies)	8,198,860.18	\$ 282,224.08
6	Estimated Net Amount of Pending Payment for Period Through 5/31/03		\$ 206,288.07
7	TBD	-	
	<b><u>Pending Change Orders &amp; Adjustments</u></b>		
9	Change Orders (estimated)	30,000.00	Note 1
10	TBD	-	Note 1
11	Estimated Total Available Contract Balance as of 7/21/03	<u>\$ 8,228,860.18</u>	
	<b><u>Deficits</u></b>		
	<b><u>Cost To Complete</u></b>		
12	Committed Costs/Ratified S/C & Vendors	3,600,000.00	Note 2
13	Mark-up of Committed Costs/Ratified S/C & Vendors	360,000.00	
14	Uncommitted Completion Costs based EJS scope of work	4,800,000.00	Note 3
15	Other costs to Complete	-	
16	Contingency @ 5% (line 14 thru 16)	n/a	
17	<b>Total Costs to Complete</b>	<u>\$ 8,760,000.00</u>	
18	Potential Liquidated Damages	100,000.00	Note 4
19	Obligee Claims	45,000.00	Note 5
20	<b>Surety Performance Bond Surplus (loss)</b>	<u>\$ (676,139.82)</u>	

	<b><u>Other</u></b>		
	<b><u>Deficits</u></b>		
		<b><u>Payment Bond</u></b>	
	Payment Bond Obligations (Outstanding Payables as of 7/21/03) Including Retention as determined by EJS Open Payables Report +		
21	Recap Forms provided by various vendors and subcontractors	250,000.00	12,500.00
22	Hold/Ratification Obligations	600,000.00	
	Additional costs to complete claimed by vendors and subcontractors to for the extended construction period to maintain an optimum completion date.	incl w completion costs	Note 6
23			
24	<b>Surety Payment Bond Loss</b>	<u>\$ 850,000.00</u>	
		<b><u>Recovery</u></b>	
25	Pending Claims by EJS	<u>-</u>	Note 7

GH 06680

**Principal:** E.J. Sciaba Contracting Company, Inc.  
**Obligee:** Town of North Brookfield  
**Project:** North Brookfield JR/SR High School  
**Surety:** American Manufacturers Mutual Insurance Co.  
**Bond No.:** 3SE 057 856  
**Claim:** 167-SE-002 989

26 Total Amount of Surety Surplus (Loss)

EFFECTIVE DATE 7-21-03  
\$ (1,526,139.82)

**Note 1** We are aware of only a few open Change Orders, directives etc.

**Note 2** We have estimated the total amount of all committed purchases based on EJS documents provided to date and responses from vendors and subcontractors to GREYHAWK inquiries.

**Note 3** This value was determined in conjunction with EJS original estimate and updated project cost to complete estimate based on remaining scope of work incorporated via Completion Contractors Estimate,

**Note 4** The original completion date of November 15, 2003 will be exceeded by approximately 100 days,

**Note 5** Estimated Value of architects fees, legal fees and other professional fees may be assessed by owner due to late completion addition costs etc.

**Note 6** This value will be determined by negotiated agreements with S/C and Vendors determined necessary to complete the project and who have committed to fixed costs or fixed unit costs via a formal Purchase or S/C Agreement with EJS

**Note 7** . We are not aware of any major claims or disputes with the Obligee with the exception of a schedule extension due to the severe winter 2002

North Brookfield Intermediate & Senior High School  
 Bond No. 3SE 057 856  
 Claim No. 167 SE 002 989  
 Principal E. J. Sciaba Contracting Co., Inc.

**Re Payment Application No 0013B for Period Ending 7/21/03**

Original Contract Sum		\$13,222,000.00
Net Change By (Executed) Change Orders		\$132,829.28
Contract Sum To Date		\$13,354,829.28
Total Completed and Stored To Date		\$5,427,335.90
Earned Work in Place	\$5,427,336.00	
Amount of Stored Materials	\$0.00	
Amount Retained on Work in place	\$271,366.80	
Amount Retained on Stored Materials	\$0.00	
Total Amount Retained		\$271,366.80
Total Earned Less Retainage		\$5,155,969.10
Less Previous Certificates for Payment		\$4,712,235.34
Current Payment Due		\$443,733.76
<b>Balance to Finish Including Retainage</b>		\$8,198,860.18
Approximate Net Value of Pending Payment Application N0.0014		TBD
Approximate Value of Available Contract Balance Period Ending 5/31/03		TBD

<b>Summary of Payment Bond Claims</b>	<b>Amount Claimed</b>	<b>Apparent Amount Owed**</b>
Mark Equipment Corp.	\$68,200.00	S/C to CWS
Greenwood Industries	\$144,579.00	\$133,611.48
American Equipment Rentals	\$12,826.15	\$4,851.00
Mandate Erectors & Welding (MEW)	\$417,430.00	Litigation*
Springfield Steel Erectors	\$40,461.12	\$8,515.37
Iron Workers H&W Trustees	See CWS	
Construction Welding Services (CWS)	See MEW	
<b>Totals</b>	<b>\$683,496.27</b>	<b>\$146,977.85</b>

\*\* Amount shown on EJS documents provided to RPA on 5/15/03

\* Litigation Surety Tendered Defense

## **EXHIBIT 17**





1799 WILLISTON RD. STE. 200, SOUTH BURLINGTON, VT 05403  
PHONE: 802.863.1422 FAX: 802.863.5955  
29 WATER ST. STE. 304, NEWBURYPORT, MA 01980  
PHONE: 978.459.2399 FAX: 978.449.2944  
1800 HANCOCK ST. QUINCY, MA 02169  
PHONE: 617.471.2887 FAX: 617.471.2816

**DEPOSITION  
EXHIBIT**

Dore 55  
4-13-05

WWW.DOREANDWHITTIER.COM

### MEETING NOTES

**DATE OF MEETING:** 6 August 2003

**PROJECT:** North Brookfield Jr./Sr. High School  
Dore & Whittier Project No. 00-404

**SUBJECT:** School Building Committee Meeting, 7:00 PM

**ATTENDING:**

Jim Murray	Co-Chair, Building Committee
Don Gillette	Co-Chair, Building Committee
Greg Kline	Building Committee
Patty Pariseau	Building Committee
Mary Ellen Tsihlis	Building Committee
Ed Wilkins Jr.	Building Committee
Jim Wuelfing	Building Committee
Ed O'Malley	Principal
Robert O'Neill	Superintendent
Larry Hassenfus	Selectboard
Jim Caldwell	Selectboard
Raeann Caron	School Committee
Eric Hevy	School Committee
Jen Lucarelli	Telegram & Gazette
Michael Ballway	Spencer New Leader
Ron MacLachlan	Baybutt Construction
Rick Anastasio	Kemper/Greyhawk
Chris Conway	Construction Manager (CMC)
Lee Dore	Dore and Whittier, Inc. (DW)

Post-it* Fax Note	7671	Date	9/11	# of pages	3
To	Chris Conway		From	KNE	
Co./Dept.			Co.		
Phone #			Phone #		
Fax #			Fax #		

1. Meeting Minutes of 18 June 2003 were approved unanimously as presented.
2. Jim Murray reviewed four letters that have been written by Kopelman and Paige (Town Counsel) regarding the project these letters were dated 6/19/03, two on 7/2/03 and one on 7/23/03. These letters covered the following subjects:
  - o The Town's acceptance of 4 out of the 12 completion contractors submitted by the Surety
  - o The formal Termination of EJ Sciaba by vote of the Selectboard

Prepared 13 August 2003

North Brookfield School Building Committee

Meeting 6 August 2003

Page 2

- 2 -

- o Waiver of Notice of Default between the Surety and the Town
  - o Letter regarding the Surety's bonding capacity and financial status
3. Rick Anastasio update the Committee on the status of retaining a completion contractor:
- a) The Winthrop Elementary School project effectively delayed the ratification process with subcontractors on the NBHS project
  - b) Subcontractors initially agreed to terms of the ratification agreements when they met at the job site prior to the 6/18/03 Building Committee meeting since that time the process has moved to the subcontractors attorneys where the process has been substantially delayed
  - c) It is the Surety's position that a Request for Proposals will be issued for this project with all the available ratified subcontractors and a listing of the jobs financial status (balance of funds left to complete work)
  - d) The Surety is mandating that all paperwork (legal issues) is complete prior to a contract being issued to a completion contractor
  - e) The completion contractor will be able to choose from subcontractors who have ratified their contracts with the Surety or can pick new subcontractors to complete the work
  - f) Mr. Anastasio believes that he has 'agreements in principle' with the following subcontractors (he noted that this list is not complete):
    - Commercial Communications
    - Greenwood Industries
    - HCI
    - Holyoke Equipment
    - KMD Mechanical
    - Griffin Electric
    - Millis Plumbing
    - SRI Sprinkler
  - g) Mr. Anastasio stated that out of 23 subcontractors and 30 vendors, 8 have executed ratification agreements and 13 have agreed in principle
4. Mr. Anastasio stated that the Request for Proposals will list subcontractors on the job and their respective cost to complete their work. Subcontractor ratification agreements will no longer stand in the way of retaining a completion contractor. Subcontractors and vendors that were under contract with EJ Sciaba will be paid for any work or materials supplied prior to May 30, 2003.
5. Mr. Anastasio informed the Committee that a mandatory pre-bid meeting will be held on site on August 19<sup>th</sup> or 20<sup>th</sup>. A draft of the RFP will be issued for Committee review during the week of August 11, 2003. DW noted that there will be a Committee meeting on August 13<sup>th</sup> and a draft form of the RFP is requested for review at this meeting. The bid date (when bid prices will be received) will be on September 2, 2003. Agreement on the successful completion contractor and a Notice to Proceed will be issued the week of September 7, 2003.
6. The Surety has stated that up to four additional general contractors will be added to the list already approved by the Building Committee. The names of these contractors will be sent to the Committee for review. There will be a requirement for a bid bond that will be issued in the RFP. Don Gillette stated that if the Surety intends to enter into a 'Tender' agreement for the project than the new completion GC

North Brookfield School Building Committee  
Meeting 6 August 2003  
Page 3

- 3 -

will need to be approved and agreeable to the Town per the performance bond signed by the Surety for this project.

7. Jim Murray discussed the Committee's disappointment with the lack of progress to date.
8. Town Counsel will need to review ratification agreements in the RFP which will include the Tender agreement and other legal documents.
9. The Committee discussed the fact that any CO's or CCD's issued on the project that are incorporated as a part of EJ Sciaba's contract will be incorporated with the contract with the new completion contractor. Any Proposal Requests that were not included in EJ Sciaba's contract will need to be negotiated after a completion contractor is retained. DW will verify status of CO's and CCD's which were incorporated as a part of the contract.
10. The next meeting is scheduled for August 13, 2003 at 7PM.

The above is my summation of our meeting. If you have any additions and/or corrections, please contact me for incorporation into these minutes. After 10 days, we will accept these minutes as an accurate summary of our discussion and enter them into the permanent record of this project.

Sincerely,

DORE AND WHITTIER, INC.  
Architects • Project Managers

  
Lee P. Dore, Assoc. AIA, CSI  
Project Manager

c Bob O'Neill, Superintendent of Schools  
Mr. John Couture, Building Inspector  
Chris Conway, Construction Manager  
Engineers Design Group  
Garcia, Galuska, Desousa  
Berkshire Design Group  
ATC  
CCR/Pyramid  
John Crisafulli Consulting Services, Inc.  
RJD/LPD/JFT/ARR/HA/GQJ/RLZ/file

Prepared 13 August 2003

## **EXHIBIT 18**

Robert J. O'Neill

05/23/2005

1

VOLUME: I

**CERTIFIED ORIGINAL  
LEGALINK BOSTON**

PAGES: 1 to 186

EXHIBITS: See Index

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

- - - - - x

AMERICAN MANUFACTURERS MUTUAL  
INSURANCE COMPANY

Plaintiff

v.

Civil Action

No. 03-40266-CBS

TOWN OF NORTH BROOKFIELD  
Defendant

- - - - - x

DEPOSITION OF ROBERT J. O'NEILL

Monday, May 23, 2005

9:06 a.m.

Holland & Knight

10 St. James Avenue

Boston, Massachusetts

Michelle Keegan, Court Reporter  
LegalLink Boston

Robert J. O'Neill

05/23/2005

75

11:39:49 1 represented the building committee in discussions  
11:39:53 2 with town counsel.

11:40:02 3 Q. Now, in answer to one of my earlier  
11:40:05 4 questions you said you thought that Dore & Whittier  
11:40:09 5 had presented an analysis of the projected  
11:40:12 6 completion data based on manpower.

11:40:18 7 Having looked at the minutes of the  
11:40:20 8 April 16 meeting and the chart in Exhibit 46, can  
11:40:26 9 you tell me whether you still think there was a  
11:40:29 10 manpower analysis in addition to the money drawdown  
11:40:35 11 analysis in Exhibit 46?

11:40:37 12 A. I don't recall ever a formal manpower. It  
11:40:41 13 was part of an ongoing discussion. I'm not sure  
11:40:43 14 that there was ever a request or a summary report  
11:40:50 15 completed with regard to manpower.

11:40:53 16 Q. You never saw a graph like Exhibit 46 that  
11:40:57 17 purported --

11:40:58 18 A. I don't recall.

11:40:58 19 Q. -- to analyze manpower?

11:41:01 20 A. I don't believe so.

11:41:01 21 Q. Let me show you a document that was marked  
11:41:24 22 previously as Exhibit 85.

11:43:01 23 (Pause)

11:43:01 24 Q. Is Exhibit 85 a letter that you wrote?  
LegalLink Boston

Robert J. O'Neill

05/23/2005

76

11:43:05 1 A. Yes.

11:43:07 2 Q. And was Exhibit 85 drafted for you by Dore &  
11:43:14 3 Whittier?

11:43:14 4 A. Yes.

11:43:15 5 Q. And then you put it on your letterhead and  
11:43:20 6 sent it, correct?

11:43:20 7 A. I reviewed it and then proceeded, yes.

11:43:25 8 Q. Is the handwriting on Exhibit 85 -- Strike  
11:43:31 9 that.

11:43:31 10 Is the handwriting on Exhibit 85 your  
11:43:33 11 handwriting?

11:43:34 12 A. Yes.

11:43:35 13 Q. When did you make the notes on Exhibit 85?

11:43:38 14 A. I'm not sure. It possibly could have been  
11:43:54 15 at the May 21st meeting, but I'm not sure.

11:44:00 16 Q. Can you think of any time other than the May  
11:44:03 17 21st meeting that you would have made notes on a  
11:44:05 18 copy of Exhibit 85?

11:44:07 19 A. I don't know if there are any meetings  
11:44:15 20 during that -- between the period of the 23rd of  
11:44:17 21 April and May 21st.

11:44:27 22 Q. When you received the draft letter from Dore  
11:44:33 23 & Whittier and put it on your own letterhead, you  
11:44:35 24 thought that it was accurate, correct?

LegalLink Boston

Robert J. O'Neill

05/23/2005

105

01:15:40 1

you?

01:15:40 2

A. Yes.

01:15:45 3

Q. Were they, in reality, notes of a meeting on

01:15:49 4

June 2, 2004?

01:15:51 5

A. That makes a lot more sense to me. Yes.

01:15:57 6

Q. That's how I read them, too.

01:16:34 7

MS. GRIFFIN: Let's mark this as the

01:16:36 8

next exhibit.

01:16:38 9

(Exhibit Number 184

01:16:38 10

marked for identification)

01:17:45 11

(Pause)

01:17:45 12

MS. GRIFFIN: Let's mark this as the

01:17:46 13

next one.

01:17:49 14

(Exhibit Number 185

01:17:49 15

marked for identification)

01:18:39 16

(Pause)

01:18:39 17

Q. Have you seen Exhibit 184 before today?

01:18:43 18

A. I don't believe so.

01:18:43 19

Q. I'm sorry?

01:18:44 20

A. I don't believe so.

01:18:44 21

Q. Have you seen the list of potential bidders

01:18:48 22

that was an enclosure with Exhibit 184?

01:18:52 23

A. I'm not sure.

01:18:57 24

Q. Do you recall being consulted sometime

LegalLink Boston



Robert J. O'Neill

05/23/2005

156

03:13:02 1 MS. GRIFFIN: 113.

03:13:04 2 Q. Can you identify Exhibit 113, please?

03:13:06 3 A. That's a project budget worksheet provided

03:13:12 4 by Dore & Whittier.

03:13:13 5 Q. I apologize. I need to go back to the

03:13:16 6 December 17th meeting one more time.

03:13:30 7 MS. GRIFFIN: Let's mark this as the

03:13:31 8 next exhibit.

03:13:44 9 (Exhibit Number 189

03:13:44 10 marked for identification)

03:15:45 11 (Pause)

03:15:45 12 Q. Can you identify Exhibit 189?

03:15:48 13 A. It looks like my notes relative to the 12/17

03:15:54 14 2003 school building committee meeting.

03:15:55 15 Q. In the left-hand margin, do you see an

03:16:00 16 asterisk there?

03:16:01 17 A. Yes.

03:16:02 18 Q. And you wrote, question mark, "January 7,

03:16:06 19 2002, enclose the building"; is that right?

3:16:08 20 A. Yes.

3:16:09 21 Q. What discussion did that note refer to?

3:16:13 22 A. I'm not really sure.

3:16:17 23 Q. Would you turn two pages further along in

3:16:22 24 Exhibit 189. Do you see the asterisk in the left

LegalLink Boston

Robert J. O'Neill

05/23/2005

185

## E R R A T A S H E E T

I, ROBERT J. O'NEILL, do hereby certify that I have read the foregoing transcript of my testimony, and further certify that said transcript is a true and accurate record of my testimony (with the exception of the following corrections listed below):

Page	Line	Correction
<u>6</u>	<u>2</u>	<u>Magnet Program</u>
<u>9</u>	<u>18</u>	<u>Dore &amp; Whittier</u>
<u>83</u>	<u>16</u>	<u>once</u>
<u>131</u>	<u>2</u>	<u>Kieran Meagher</u>
<u>162</u>	<u>17</u>	<u>Nancy Nykiel's</u>
<u>170</u>	<u>4</u>	<u>Nancy Nykiel</u>

Signed under the pains and penalties of perjury  
this 16th day of June, 2005.

  
ROBERT J. O'NEILL  
LegalLink Boston

## **EXHIBIT 19**

**Principal:** E.J. Sciaba Contracting Company, Inc.  
**Obligee:** Town of North Brookfield, Board of Education  
**Project:** North Brookfield Junior & Senior High School  
**Surety:** American Manufacturers Mutual Insurance Co.  
**Bond No.:** 3SE 057 856  
**Claim:** 167-SE-002-989

**Final List of Potential Bidders – North Brookfield**  
**8/13/03**

Jackson Construction Co. 20 Dan Road Canton, MA 02021  Tel: (781) 737-1501 Fax: (781) 737-1550	Paul Bordieri
George B.H. Macomber Co. One Design Center Place, Suite 600 Boston, MA 02210  Tel: (617) 478-6200 Fax: (617) 478-2123	Gordon Knapp
Payton Construction Corporation 273 Summer Street Boston, MA 02210  Tel: (617) 423-9035 Fax: (617) 423-0975	Dick Collari
Agostini Construction 241 Narragansett Park Drive East Providence, RI 02916  Tel: (401) 435-4848 Fax: (401) 431-0049	George Agostini
Consigli Construction Co., Inc. 197 Main Street Milford, MA 01757-1663  Tel: (508) 473-2580 Fax: (508) 473-3588	Vance Freymann
Fontaine Brothers, Inc. 510 Cottage Street Springfield, MA 01104  Tel: (413) 781-2020 Fax: (413) 734-1881	David Fontaine Mark Frechette
D.A. Sullivan & Sons Contractors 82 North Street Northampton, MA 01060	Mark Sullivan Don Dennis

**Principal:** E.J. Sciaba Contracting Company, Inc.  
**Obligee:** Town of North Brookfield, Board of Education  
**Project:** North Brookfield Junior & Senior High School  
**Surety:** American Manufacturers Mutual Insurance Co.  
**Bond No.:** 3SE 057 856  
**Claim:** 167-SE-002-989

**Final List of Potential Bidders – North Brookfield**  
**8/13/03**

Tel: (413) 584-0310 Fax: (413) 585-5710	
B. W. Construction Co., Inc. 25 Laurel Lane Spencer, MA 01562  Tel: (508)-885-6560 Fax: (508)-885-9607	Ben Whittaker
Aquadro & Cerruti P.O. Box 656 Texas Road Northampton, MA 01060  Tel: (413) 584-4022 Fax: (413) 584-0011	Mazi Hashemi

## **EXHIBIT 20**



1795 WILLISTON RD, STE. 5 S. BURLINGTON, VT 05403  
Phone (802) 863-1428 Fax (802) 863-6955

1400 HANCOCK STREET, QUINCY, MA 02169  
Phone: (617) 471-2897 • Fax: (617) 471-2516

## MEMORANDUM

**DATE:** 9 March 2004 **OFFICE:** VT MA  
**MEMO TO:** Rick Anastasio  
**FROM:** Lee Dore  
**PROJECT:** North Brookfield Jr./Sr. High School  
**PROJECT NO:** 00-404  
**SUBJECT:** Revisions to RFP draft and other comments for discussion

Rick,

Listed below are some comments that need to be incorporated into the RFP as well as general comments that we need to discuss:

1. The Owner has approved the list on nine contractors that you have labeled "final list" dated 8/13/03. However, they are concerned about B.W. Construction, specifically their bonding limits and size. They wish to reserve their rights to not approve of B.W. construction pending further investigation into references and review of their current workload compared to their aggregate bonding capacity – also the single project limit capacity.
2. In your RFP you have stated that documents that will be available are titled 'construction set' on page 4. We will actually be issuing the 'bid set' with all addenda. A construction set (documents with addenda incorporated – 'posted set') can be issued to the successful completion contractor later. We would like the completion GC responsible for everything in the bid set, the construction set is a courtesy with a disclaimer that GC is still responsible for everything included in bid set and addenda. I will be bringing copies of Bid Set to pre-bid conference.
3. Your RFP states that bids will be opened in your office. The Owner requests that the bids be opened at the school. The high school library can be made available for this purpose. Otherwise the Owner and D&W would request that fax copies received by you also be forwarded via facsimile to the Owner and D&W on September 2, 2003.
4. If we are incorporating the CCD log as part of the RFP – we need to delete CCD #7 as it was never issued.
5. We believe that a prevailing wage updated form will be necessary for the RFP – any thoughts??
6. In light of the fact that Application for Payment #14 has not been certified by the Architect and has not even been submitted for review the Owner requests that information contained in the RFP be limited to Application of Payment #13 (April, 2003) which would change your information as follows:

RE: Payment for Application No 0013 for Period Ending 4/30/03	
Original Contract Amount	\$13,222,000.00
Net Change By (executed) CO's & CCD's	\$132,829.28
Contract Sum to Date	\$13,354,829.28
Total Completed and Stored to Date	\$5,427,335.90
Earned Work in Place	\$5,427,335.90
Amount of Stored Materials	\$202,000.00
Amount Retained on Stored Materials	\$10,100.00

Amount Retained on Work in Place	\$261,266.79
Total Amount Retained	\$271,366.80
Total Earned Less Retainage	\$5,155,969.10
Less Previous Certificates for Payment	\$4,712,235.34
Current Pending Payment (App #0014)	\$206,288.07
Balance to Finish Including Retainage	\$8,198,860.18

**Approximate Net Value of PENDING Payment Application No. 0014 \$206,288.07**

7. On page 6 of the draft RFP you have stated that there are executed Change Orders 1&2 which reflect scope changes which have been (*sentence ends*)? Please note that CO's 1 through 3 and CCD's 5 and 6 have been executed which reflect scope changes that have been incorporated as part of the contract.
8. On the "Optional Vendors & or Subcontractors – Information for Reference", Figure 2 Item 1 "Consolidated Brick and Building Supply" is listed incorrectly. It should read Spaulding Brick Co. – Contact: Jeff Shinn; Address: 25 Daniel Plummer Rd., Goffstown, NH 03045; Phone: 603-647-8442; Fax: 603-647-8439; Specification Section 04200.
9. The Owner has received notice that EJ Sciaba's Builder's Risk policy has been cancelled. The project is currently without coverage. As this was a part of the contract with EJ Sciaba and now the responsibility of the Surety, the Owner requests the Surety take out an interim Rider for coverage and submit a copy of said insurance for the Owner's records, or advise the Town otherwise. Please contact me with the status of this item.
10. The Owner has requested updated information on the status of the Gas Service bill from Keyspan. Last I recall, the Surety was going to make these payments until the new completion contractor takes over. Please advise me of the status of this item.
11. On the draft RFP on the second sentence of page 1 you refer to a project No. 00-404. This is the Architects project number, not the Owners.

I will be in the site job trailer today if you need to reach me – 508-867-0554.